

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. The petitioner made a timely application for heating fuel assistance with the Department of PATH and was informed by a notice dated August 16, 2001 that he would not be

eligible because his estimated heating cost is less than the allowed minimum heating cost to be eligible for assistance.

3. The Department calculated the petitioner's eligibility by subjecting his \$1,113 monthly income to a \$150 deduction based on his disability and a 20 percent earnings deduction of \$106. The remainder, \$857, made him income eligible for the program. (The maximum allowable income is \$895 a month.) The Department then calculated whether the petitioner had a heating obligation of at least \$266 per month. Relying on tables in its regulations, the Department determined that the petitioner would have an annual heating cost of \$412 during the heating season. The Department further determined based on tables that the petitioner had been allotted \$312 per year by the "Section 8" program to pay for his heating costs.¹ This "subsidy" was subtracted from the petitioner's annual heating costs and he was found to have only \$100 in uncovered heating costs. Because this amount was less than the \$266 minimum (see infra), the petitioner was determined to be ineligible.

¹ This \$312 figure represents the amount by which the petitioner's annual rent obligation to his landlord was reduced by Section 8 because utilities are not included in the petitioner's rent. If the landlord had provided utilities, the petitioner would have been required to pay \$26 more per month as his portion of the rent. The housing authority pays the landlord the difference between the market value of the apartment and the petitioner's share.

4. The petitioner appealed this determination because his total utility costs, including cable TV and internet access fees, are about \$110 per month.

ORDER

The decision of the Office of Home Heating Assistance of PATH is affirmed.

REASONS

The regulations governing the fuel program provide that a single person with a net income less than \$895 is financially eligible for benefits. P-2905 A. The petitioner is financially eligible based on his countable income of \$857.

Financial eligibility, however, is not the only test for receiving benefits. The regulations also require that a household have an obligation to pay a minimum amount of heating expense in relation to its income in order to receive benefits. 2906.2(c). With \$857 in income, the petitioner is eligible under the Department's regulations if he is liable for at least \$266 per year in heating costs. W.A.M. 2906.3.

The Department calculates a household's liability for fuel expenses, not through use of actual usage figures, but by means of a "Proxy Table" reflecting standing heating costs by

the type (single or multi-family), size (by number of bedrooms) and type of heating fuel. W.A.M. 2906.2(a). For the petitioner, who lives in a one-bedroom apartment that is heated primarily by propane gas, the annual heating figure is \$412. W.A.M. 2906.4. The regulations provide further that persons who live in subsidized housing have further reductions calculated as follows:

Each household living in subsidized housing will have its annual primary heating fuel costs reduced by an annualized standard heating subsidy deduction prior to determining the percentage of heating costs to be met by the Fuel Program. This standard is derived from Housing and Urban Development (HUD) heating subsidy amounts, called allowance by HUD, which are developed by the Vermont State Housing Authority and are specified by housing type, fuel type, and number of bedrooms. These subsidy amounts are located in the Standard Heating Subsidy Tables in the Fuel Program section of the welfare procedures manual.

W.A.M. 2906.1

For the petitioner the standard heating subsidy figure is \$312 per month (one bedroom, multi-family dwelling with propane gas). P-2905 C. The regulations require that this figure must be used to reduce the annual heating cost to obtain a "net annual fuel cost." W.A.M. 2906.2(b). The petitioner's "net annual fuel cost" (\$412-\$312) is \$100.

As stated above, the petitioner must have a minimum net fuel cost figure of at least \$266 in order to be eligible for the payment of any benefits. W.A.M. 2906.2(c). The

Department is correct in its determination that the petitioner cannot receive heating assistance under the regular fuel program for this winter. The Board is thus bound to affirm the Department's decision. 3 V.S.A. § 1391(d), Fair Hearing Rule 17.²

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²At the hearing in this matter, held on October 3, 2001, the petitioner was informed of the "crisis" fuel program that he can apply for through his local community action program if an emergency need for fuel arises this winter.